



IT IS ORDERED

Date Entered on Docket: May 6, 2019

The Honorable Robert H Jacobvitz  
United States Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

Tami L. Kennard

Case No. 19-10560-j7

Debtor(s).

**DEFAULT ORDER GRANTING U.S. BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE, FOR THE HOLDERS OF THE CIM TRUST 2017-7, MORTGAGE-BACKED NOTES, SERIES 2017-7 RELIEF FROM STAY AND ABANDONMENT OF PROPERTY LOCATED AT 2604 E. MESCALERO ROAD, ROSWELL, NEW MEXICO 88201**

This matter came before the Court on the Motion for Relief from Stay and to Abandon Property located at 2604 E. Mescalero Road, Roswell, New Mexico 88201 filed on April 8, 2019, Docket No. 11 (the "Motion") by U.S. Bank National Association, as Indenture Trustee, for the Holders of the CIM Trust 2017-7, Mortgage-backed Notes, Series 2017-7 ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On April 8, 2019, Movant served the Motion and a notice of the Motion (the "Notice") on counsel of record for the Debtor(s) and the case trustee (the "Trustee") by use of

the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtor(s) by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the following property:

Part of Blocks 3 and 4 of Urton Orchards, a subdivision, in the County of Chaves and State of New Mexico, as shown on the Official Plat filed in the Chaves County Clerk's Office on December 15, 1911 and recorded in Book A of Plat Records, at Page 170, and the amended Plat thereof as to Block 4 recorded October 18, 1923 in Plat Book A, Page 194, which is Block 9 and described as follows:

Beginning at a point that lies North 89 degrees 53 minutes 53 seconds East 1276.00 feet from the W1/4 corner of Section 23, T10S, R24E, N.M.P.M., Chaves County, New Mexico, which point lies on the South Right-of-Way East Mescalero Road, which point is also on the North line of Block No. 3; then North 89 degrees 53 minutes 53 seconds East, continuing along said South Right-of-Way, for 355.79 feet into Block No. 4; then South 00 degrees 06 minutes 07 seconds East for 612.18 feet; then South 89 degrees 53 minutes 53 seconds for 355.79 feet; then North 00 degrees 06 minutes 07 seconds West for 612.18 feet to the point of beginning.

As shown on Survey by Melvin R. Pyeatt filed July 27, 2005 and recorded in Survey Book S12, at Page 40.

TOGETHER WITH an undivided one-half interest in and to a plot of ground 10 feet square, and the well and pumping plat situated thereon, located in the Northwest corner of Block 1, Urton Orchards, together with a right-of-way for the purpose of conveying water from said well to the above described lands and together with an undivided 3/16th interest in and to the Crown Ditch out of the Berrendo River and all water flowing therein.

(the "Property").

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on May 2, 2019;

(f) As of May 3, 2019, neither the Debtor(s) nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies, under penalty of perjury that, on May 3, 2019 Krista Jones, Bankruptcy Legal Assistant searched the data banks of the Department of Defense Manpower Data Center ("DMDC"), and found that the DMDC does not possess any information indicating that the Debtor(s) is/are currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor(s) is/are a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor(s) or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Movant need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor(s), although the Debtor(s) can be named as a defendant in litigation to obtain an in rem judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

XXX END OF ORDER XXX

Submitted by:

TIFFANY & BOSCO, P.A.

By: /S/Electronically submitted/ May 3, 2019

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